

Senate Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 155

SENATE BILL 1254

AN ACT

AMENDING SECTION 13-4062, ARIZONA REVISED STATUTES; RELATING TO ATTENDANCE OF WITNESSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-4062, Arizona Revised Statutes, is amended to
3 read:

4 13-4062. Anti-marital fact privilege; other privileged
5 communications

6 A person shall not be examined as a witness in the following cases:

7 1. A husband for or against his wife without her consent, nor a wife
8 for or against her husband without his consent, as to events occurring during
9 the marriage, nor can either, during the marriage or afterwards, without
10 consent of the other, be examined as to any communication made by one to the
11 other during the marriage. These exceptions do not apply in a criminal
12 action or proceeding for a crime committed by the husband against the wife,
13 or by the wife against the husband, nor in a criminal action or proceeding
14 against the husband for abandonment, failure to support or provide for or
15 failure or neglect to furnish the necessities of life to the wife or the
16 minor children. Either spouse, ~~at his or her request, but not otherwise,~~ may
17 be examined as a witness for or against the other in a prosecution for an
18 offense listed in section 13-706, subsection F, paragraph 1, for bigamy or
19 adultery, committed by either spouse, or for sexual assault committed by the
20 husband IF EITHER OF THE FOLLOWING OCCURS:

21 (a) BEFORE TESTIFYING, THE TESTIFYING SPOUSE MAKES A VOLUNTARY
22 STATEMENT TO A LAW ENFORCEMENT OFFICER DURING AN INVESTIGATION OF THE OFFENSE
23 OR OFFENSES ABOUT THE EVENTS THAT GAVE RISE TO THE PROSECUTION OR ABOUT ANY
24 STATEMENTS MADE TO THE SPOUSE BY THE OTHER SPOUSE ABOUT THOSE EVENTS.

25 (b) EITHER SPOUSE REQUESTS TO TESTIFY.

26 2. An attorney, without consent of the attorney's client, as to any
27 communication made by the client to the attorney, or the attorney's advice
28 given in the course of professional employment.

29 3. A clergyman or priest, without consent of the person making the
30 confession, as to any confession made to the clergyman or priest in his
31 professional character in the course of discipline enjoined by the church to
32 which the clergyman or priest belongs.

33 4. A physician or surgeon, without consent of the physician's or
34 surgeon's patient, as to any information acquired in attending the patient
35 which was necessary to enable the physician or surgeon to prescribe or act
36 for the patient.

37 Sec. 2. Short title

38 This act may be cited as "Heather's Law".

39 Sec. 3. Emergency

40 This act is an emergency measure that is necessary to preserve the
41 public peace, health or safety and is operative immediately as provided by
42 law.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.